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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/784,068	02/16/2001	Ronald Keith Dobes	202385US8	4878

22850 7590 09/14/2004

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EXAMINER

ZHONG, CHAD

ART UNIT	PAPER NUMBER
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2152

DATE MAILED: 09/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/784,068

Applicant(s)

DOBES ET AL.

Examiner

Chad Zhong

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 13 August 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-26 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

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FINAL ACTION

1. This action is responsive to communications: Amendment, filed on 08/13/2004. This action has been made final.

Claims 1-26 are presented for examination. In amendment A, filed on 08/13/2004

During the Interview 8/4/04, the Examiner did mention the Applicant's argument appeared to overcome Bahlmann, this statement is not in any way a guarantee. In light of this, the Examiner re-evaluated Bahlmann and has come to a conclusion that Bahlmann teaches the current set of claims as stand, a detailed analysis is provided below.

Claim Rejections - 35 USC § 102

2. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(e) the invention was described in a patent granted on an application for patent by another filed in the United States before the invention thereof by the applicant for patent, or on an international application by another who has fulfilled the requirements of paragraphs (1), (2), and (4) of section 371 (c) of this title before the invention thereof by the applicant for patent.

3. Claims 7-8, 10, 12, 14, 20-21, 23 and 25 are rejected under 35 U.S.C. 102(e) as being anticipated by Bahlmann, US 6,487,594.

4. As per claim 7, Bahlmann teaches a method for supplementing subscribership for data services of a service provider that provides at least one of CATV services and data services in first geographic area, comprising the steps of:

obtaining a contract from the service provider to provide data services for an end-user, the end-user located outside of the first geographic area;

provisioning the end-user for data services; storing an end-user entry in a database corresponding to the end-user;

associating the end-user entry with the service provider in the database; and connecting the end-user to a communication line operated by the service provider via a high speed data network (Col. 3, lines 5-25).

5. As per claim 8, Bahlmann teaches the method of claim 7, wherein the communications line operated by the service provider is connected to a headend through which at least one of CATV signals and data signals are transmitted (Col. 3, lines 5-25, lines 30-37).

6. As per claim 10, Bahlmann teaches a method for expanding customer bases for data services providers, comprising the steps of:

executing a subscription contract between a third party and a first data service provider to connect a first end-user to a high-speed network dedicated to broadband data transport services operated by the third party;

executing another subscription contract between the third party and a second data service provider to connect a second end-user to the high-speed network; connecting the first end-user to a headend of the first data service provider through a common data center of the high-speed network; and

connecting the second end-user to a headend of the second data service provider through the common data center of the high-speed network (Col. 3, lines 5-25).

7. As per claim 12, Bahlmann teaches a method for reusing computer resources to provide operations support services to a plurality of Internet service providers with different customer bases, comprising the steps of:

populating a digital repository with entries including information about end-users of a first Internet service provider; populating the digital repository with entries including information about end-users of a second Internet service provider, the second Internet service provider being different from the first

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Internet service provider;

presenting a graphical user interface to the first Internet service provider when seeking to at least one of access, create, and update the information about end-users of the first Internet service provider; and

presenting the graphical user interface to the second Internet service provider when seeking to at least one of access, create, and

update the information about end-users of the second Internet service provider (Col. 3, lines 5-25).

8. As per claim 14, Bahlmann teaches a method for promoting competition between cable providers offering broadband data services, comprising steps of:

connecting an end-user to a high-speed data network dedicated to broadband data transport services; connecting a headend of a first broadband data services provider to the high-speed data network so as to create a physical communication link between the end user and the headend of the first broadband data services provider;

connecting a headend of a second broadband data service provider to the high speed data network so as to create another physical communication link between the end user and the headend of the second broadband data services provider; and

determining if the end-user selects to subscribe to data services offered by one of the first broadband data services provider and the data services offered by the second broadband data services provider;

enabling the physical communication link between the end-user and the first broadband data services provider if in the determining step it is determined that the end-user selects the data services of the first broadband data services provider; and

enabling the physical communication link between the end-user and the second broadband data services provider if in the determining step it is determined that the end-user selects the data services of the second broadband data services provider (Col. 3, lines 5-25; Col. 4, lines 18-22).

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9. As per claim 20-21, claims 20-21 are rejected for the same reasons as rejection claims 7-8 above respectively.

10. As per claim 23 and 25, claims 23 and 25 are rejected for the same reasons as rejection to claims 12 and 14 above respectively.

Claim Rejections - 35 USC § 103

11. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

12. Claims 1-6, 9, 11, 13, 15, 16-19, 22, 24, and 26 are rejected under 35 U.S.C. 103(a) as being unpatentable over Bahlaman, US 6,487,594, in view of 'Official Notice' in the example of Sistanizadeh et al. (hereinafter Sistanizadeh), US 6,101,182.

13. As per claim 1, Bahlmann teaches a method for expanding customer bases for data services providers, comprising the steps of:

connecting a first end-user of a first data services provider to a high-speed network dedicated to broadband data transport services (Col. 3, lines 30-36),

connecting a second end-user of a second data services provider to the high-speed network;
connecting the first end-user to a headend of the first data services provider through a common data center of the high-speed network (Col. 3, lines 5-25; Col. 4, lines 18-22, lines 35-44); and

connecting the second end-user to a headend of the second data services provider through the common data center of the high-speed network, wherein the high-speed network is owned by a third party, not the first data services provider and not the second data services provider (Col. 2, lines 10-24,

lines 30-39; Col. 3, lines 5-25).

14. Bahlmann does not teach the high-speed network being at least one of a hybrid fiber optic coaxial network and an all-fiber optic network. However, "Official Notice" is taken that the concept and advantages of providing for a hybrid fiber co-axial network for transportation purposes is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include a portion of common network is a hybrid coaxial network with Bahalman because it would provide for faster and greater range of transportation. As an illustrative example, referring to Sistanizdeh, Col. 3, lines 15-40. Sistanizdeh teaches the notion of hybrid co-axial network for improvement of speed.

15. As per claim 2, Bahlmann teaches the method of claim 1, wherein the first end-user is geographically located outside of a peripheral reach of a communications plant operated by the first data services provider, the communications plant being at least one of a hybrid fiber optic coaxial network and an all-fiber optic network (Col. 2, lines 1-24).

16. As per claim 3, Bahlmann teaches the method of claim 1, wherein the headend of the first data services provider is a headend for at least one of CATV signals and data (Col. 3, lines 5-25, lines 30-37).

17. As per claim 4, Bahlmann does not teach the method of claim 2, wherein:

the communications plant operated by the first data services provider carry CATV signals; and
the peripheral reach of the communications plant is restricted by a governmental regulatory authority.
However, "Official Notice" is taken that the concept and advantages of providing for a providing CATV signals in cable wires and governmental regulation of the telecommunications industry is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include

the communications plant operated by the first data services provider carry CATV signals; and
the peripheral reach of the communications plant is restricted by a governmental regulatory authority

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with Bahalman because it would provide for additional cable TV services as well as regulatory authority to regulate bandwidth and spectrum within the coaxial wire.

18. As per claim 5, Bahlmann does not teach the method of claim 4, wherein the communications plant carries CATV signals to other end-users, but not the first end-user. However, "Official Notice" is taken that the concept and advantages of providing for a selective programming/services within the cable network is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include carrying CATV signals to only particular end-users with Bahalman because it would provide for variety of services for the end user, allowing end users to be able to select their individual monthly cable TV plans.

19. As per claim 6 Bahlmann teaches the method of claim 1, further comprising the steps of:

storing a first end-user entry in a database of the common data center corresponding to the first end-user;

associating the first end-user entry with the first data services provider in the database;

storing a second end-user entry in the database of the common data center corresponding to the second end-user; and

associating the second end-user entry with the second data services provider in the database (Col. 3, lines 5-25; Col. 4, lines 19-22).

20. As per claim 9, Claim 9 is rejected for the same reasons as rejection to claim 4 above.

21. As per claim 11, Bahlmann does not explicitly teach the method of claim 10, wherein at least one of the first data service provider and the second data service provider also provide cable television signals to communication lines connected to their respective headends. However, "Official Notice" is taken that the concept and advantages of providing for a selective programming/services within the cable

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network is well known and expected in the art. It would have been obvious to one of ordinary skill in the art to include carrying CATV signals end-users with Bahalman because it would provide for variety of services for the end user, allowing end users to be able to select their individual monthly cable TV plans.

22. As per claim 13, Claim 13 is rejected for the same reasons as rejection to claim 5 above.

23. As per claim 15, Claim 15 is rejected for the same reasons as rejection to claim 5 above.

24. As per claims 16-19, Claims 16-19 are rejected for the same reasons as rejection to claims 1-3 and 6 above respectively.

25. As per claims 22, 24 and 26, Claims 22, 24, and 26 are rejected for the same reasons as rejection to claims 9, 5 and 15 above respectively.

Conclusion

26. Applicant's remarks filed 08/13/04 have been considered but are found not persuasive.

27. In the remark, the Applicant argued in substance that Bahlmann does not teach providing multiple data service providers a high-speed network to expand their customer base, Bahlmann is directed to a policy management method and system for use by a single internet service provider (hereinafter ISPs).

In response to Applicant's amendment, Bahlmann does teach the above section.

Referring to Col. 3, lines 5-15, lines 55-63; Col. 5, lines 23-29, Bahlmann explicitly teaches the notion of multiple ISPs connecting to centralized location as shown in figure 4. Applicant believes Bahlmann is directed towards a single service provider, this assertion is based upon Fig 5 among other sections, wherein Bahlmann shows only a *sample* of one Service provider (emphasis added), the remaining ISPs certainly have the capability to connect to said central service. Thus Bahlmann teaches the notion of

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plurality/multiple service providers connecting to a centralized location.

28. In the remark, the Applicant argued in substance that Bahlmann does not teach associating an end user with one service provider of the plurality of service providers that may be available because all the end users in Bahlmann are customers of the same service provider.

In response to Applicant's amendment, Bahlmann teaches the above section.

As mentioned in item 27 above, Bahlmann over comes Applicant's argument. Applicant argued further in this section, specifically in reference to claims 7 and 20. According to claim 7, Applicant merely mentions different geographic area, this can not incorporate across different ISP/domains, because Bahlmann's invention mentions across different geographic areas. Furthermore, Applicant's claims as stand does not overcome Bahlmann's, further specific amendments are necessary for further progress in prosecution.

29. In the remark, Applicant argued in substance that Bahlmann in view of Official Notice have no references cited to support the assertions. The Examiner have incorporated several references for Applicant's reference, specifically, for hybrid fiber-Coaxial networks, refer to Sistanizadeh et al. US 6,101,182 and sections cited contained in the final action above.

30. "providing for CATV signals in cable wires and governmental regulation of the telecommunications industry", "providing for selective programming/services within the cable network", and "promotion competition" are all intended use thus they will not give any patentable weight.

THIS ACTION IS MADE FINAL. Applicant is reined of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO**

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MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure. The following patents and publications are cited to further show the state of the art with respect to "METHOD AND SYSTEM OF EXPANDING A CUSTOMER BASE OF A DATA SERVICES PROVIDER".

- | | | |
|------|------------|---------------------|
| i. | US 6101182 | Sistanizadeh et al. |
| ii. | US 6636502 | Lager et al. |
| iii. | US 6662233 | Skarpness et al. |
| iv. | US 6496575 | Vasell et al. |
| v. | US 6430175 | Jennings et al. |

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Chad Zhong whose telephone number is (703) 305-0718. The examiner can normally be reached on M-F 7am-4:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John A Follansbee can be reached on 703-305-8498. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

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Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

CZ
August 25, 2004

A handwritten signature in black ink, consisting of a stylized 'D' followed by a horizontal line and a diagonal stroke.

Dung C. Dinh
Primary Examiner